

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON

MICHAEL J. FUGATE, : Case No. 3:11-cv-390

Plaintiff, : District Judge Walter H. Rice
vs. : Magistrate Judge Michael J. Newman

COMMISSIONER OF :
SOCIAL SECURITY,

Defendant. :

**ORDER DENYING PLAINTIFF'S MOTION
FOR AN EXTENSION OF TIME (DOC. 15)**

This Social Security disability case is before the Court upon a request by Plaintiff's counsel for an extension of time to file a motion for attorney's fees. Doc. 15. Although not specified in the motion, the Court presumes counsel seeks an extension to file a motion for an award of attorney's fees and costs under the Equal Access to Justice Act ("EAJA"), 28 U.S.C. § 2412(d). An EAJA fees motion must be filed within thirty days of "final judgment." *See* 28 U.S.C. § 2412(d)(1)(B). "Final judgment" occurs at the end of the sixty-day period to file an appeal under Fed. R. App. P. 4(a)(1)(B). *See Peters v. Sec'y of Health and Human Servs.*, 934 F.2d 693, 694 (6th Cir. 1991). Plaintiff's judgment became final on May 20, 2013 -- when the time to appeal this Court's March 20, 2013 judgment expired.¹ Accordingly, Plaintiff's counsel has until June 19, 2013 to file an EAJA fees/costs award motion.

Counsel is advised that the Court lacks jurisdiction to extend the time period to file an EAJA fees petition. *See Allen v. Sec'y of Health & Human Servs.*, 781 F.2d 92, 94-95 (6th Cir.

¹ The 60-day deadline to file an appeal fell on Sunday, May 19, 2013, which is extended, under the Federal Rules of Civil Procedure, until Monday, May 20, 2012. *See* Fed. R. Civ. P. 6(a)(1)(C).

1986). Accordingly, the motion is **DENIED**. In the interest of justice, the Court will allow counsel to file a concise request on or before the June 19th deadline which, for good cause shown, she can subsequently move to supplement.

May 24, 2013

s/ **Michael J. Newman**
United States Magistrate Judge